

REMARKS

Claims 30-65 are now in this application. Claims 1-29 are rejected.

Claims 1-29 are cancelled. New claims 30-65 are added.

The applicant and applicant's attorney appreciate the Examiner's granting of the telephone interview conducted on December 19, 2003, and extend their thanks to the Examiner for his time and consideration. While no formal agreement was reached, it was agreed that the present invention differs from the cited art of record, at least to the extent that a linear measurement device or devices, such as for example one or more tape measures, are mounted to the vehicle during the taking of a measurement. Counsel for applicant noted to the Examiner that, by virtue of such arrangement, it would not be necessary to level the vehicle in absolute terms, as would be required if the measurement device is independent from the vehicle, and that setup and use of a device in accordance with the invention would be simple and straightforward. It was generally agreed that no such arrangement was taught by Palombi reference. The Examiner kindly suggested incorporating this feature in the claims, and presenting arguments accordingly. The claims now submitted reflect the understandings had with the Examiner as a result of the interview.

Claim 1-29 are rejected as obvious over Palombi (US 5,029,397) under 35 U.S.C. §103(a). Claim 1-29 are now canceled, rendering the rejection moot.

However, insofar as the subject matter of new claims 30-65 reflects that of the cancelled claims, and in the event the Examiner considers asserting the present rejection against the new claims, applicant submits the following remarks.

As presently claimed in each of the independent claims 30, 57, 62 and 65 utilize an approach by which at least one linear measuring device is mountably received to the vehicle and locatable at a position correlatable with a location of at one datum point, such that a linear measurement to another datum point taken when in this position will represent a linear dimension (distance) between the two datum points. By so attaching the measuring device to the vehicle, absolute leveling of each of the measurement device and the vehicle is no longer necessary, as for example, in Palombi. When taking vertical measurements, it is necessary only to have the measuring device and the vehicle aligned relative to one other, as explained in the specification at the paragraph bridging pages 13 and 14.

In addition, unlike the present invention which directly measures the distance between two datum points, the laser system taught by Palombi requires a line of sight to each datum point, which significantly restricts the flexibility of the device, in comparison with the present invention. In many cases, this would necessitate excessively elongated projections or "targets" which would compromise dimensional accuracy, or removal of additional body parts from the vehicle.

A further and important difference between the present invention and Palombi is related to the fact that the present invention makes use of direct measurements instead of calculations. The direct mounting of a measurement device to the vehicle and the optional use of an adjustable spirit level allows the apparatus to be aligned and leveled relative to the vehicle such that neither the vehicle nor the apparatus need be precisely level in absolute terms.

In Palombi, accurate dimensional calculation requires the angular measurements to be performed in a plane parallel to the vehicle frame. Since the laser is supported independently, it must be aligned on the tripod to ensure that the beam projects along the datum plane (see col. 9, lines 56-59). No specific details are given as to precisely how this alignment is performed. However, the procedure would only be straightforward if the laser were fixed in a horizontal plane and vehicle were level in absolute terms, which in practice would be highly unlikely. Otherwise, the user would be faced with the difficult and time-consuming process of leveling the vehicle in absolute terms, or aligning the laser in relative terms, which would be a complex process requiring iterative mapping of multiple datum points.

It will be appreciated that this complication is inherent in Palombi, because the laser and the vehicle are supported independently of one another, whereas in the case of the present invention, and as noted above, the apparatus is

mounted directly to the vehicle frame, making relative alignment between the two a simple and straightforward matter.

There are additional alignments that are crucial for the overall implementation of the methodology taught by Palombi, and add to the complexity of use. One of them requires the tripod to be positioned along the plane spaced from and parallel to the vehicle frame (see col. 9, lines 61-64). Further alignment is required in order for the first and the second end of the mounting bar to be placed equidistantly from a second plane (see col. 9 lines 5-8). All of these adjustments are critical to the indirect distance calculation methodology taught by Palombi, yet are sensitive, time-consuming, and readily prone to inaccuracy through operator error.

In summary, the apparatus and method of the present invention provide direct measurement of distances between a greater number of datum points, in both vertical and horizontal dimensions, with minimal setup time, in a simple, efficient, robust, accurate and reliable manner. Because its principles of operation are so fundamentally different, no amount of modification of the Palombi device would make obvious the present invention. Rather, by its reliance on trigonometrical calculation rather than direct measurement, support of the apparatus remote from the vehicle, and reliance on line of sight to the datum points, in many respects Palombi teaches away from the present invention.

Based upon the foregoing, the claims presently pending are believed to patentably distinguish over Palombi and the remaining art of record. Favorable action on the merits is earnestly solicited.

One (1) further independent claim in excess of three is added.

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Based upon the above, favorable consideration on the merits of the newly added claims is earnestly solicited.

A Request for Continued Examination under 37 CFR 1.114 is being filed concurrently herewith, and in which this Applicant has requested a three (3) month extension of time.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited. Please charge any deficiency or credit any overpayment to Deposit Account No. 10-1250.

Respectfully submitted,

JORDAN AND HAMBURG LLP

By *C. Bruce Hamburg* by:
C. Bruce Hamburg
Reg. No. 22,389
Attorney for Applicant

Jordan and Hamburg LLP
122 East 42nd Street
New York, New York 10168
(212) 986-2340

Tammy & David
Reg No. 36,049